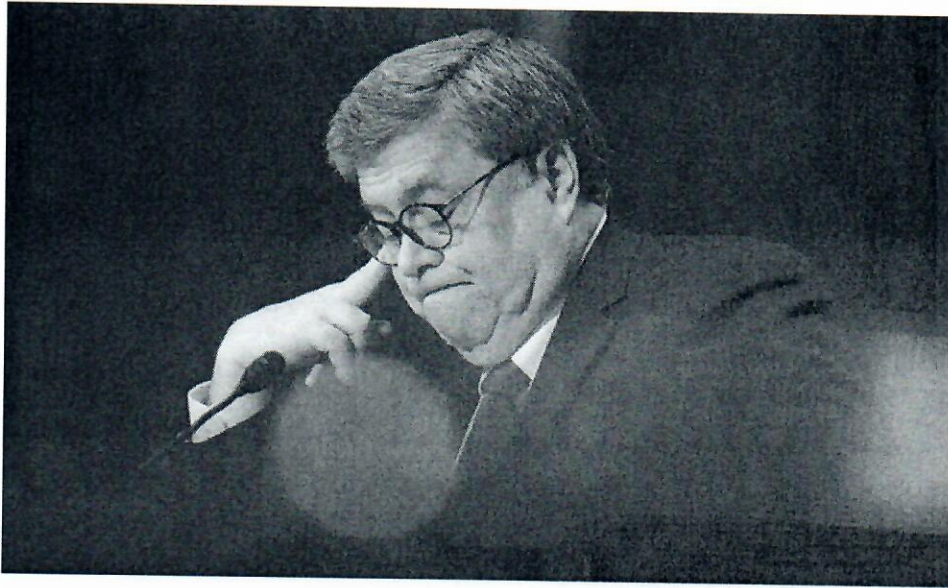


Former Justice Dept. Leaders Slam Barr's Commentary on Inspector General's Report

"This is the first attorney general in the history of presidential impeachment proceedings to enlist as a partisan warrior on behalf of a President," one former DOJ lawyer said in a statement issued by the conservative legal group Cheek & Balances.

By C. Ryan Barber | December 10, 2019 at 11:06 AM



Attorney General William Barr testifies on Wednesday, May 1, 2019. Credit: Diego M. Radzinski / ALM

Updated at 2:18 p.m.

A day after U.S. Attorney General William Barr disputed a watchdog's finding that the FBI was legally justified in opening the Russia investigation, a group of lawyers who served in Republican administrations on Tuesday accused him of mischaracterizing the conclusions and more broadly injecting politics into the Justice Department to benefit President Donald Trump.

Barr disavowed certain findings of the Justice Department's inspector general, Michael Horowitz, who documented missteps in the FBI's inquiry into Russian interference in the 2016 election but otherwise determined the investigation was lawfully opened. Taking aim at that latter finding, Barr said the inspector general's report "now makes clear that the FBI launched an intrusive investigation of a U.S. presidential campaign on the thinnest of suspicions that, in my view, were insufficient to justify the steps taken."

"It is also clear that, from its inception, the evidence produced by the investigation was consistently exculpatory," he said, in a prepared statement that went out within a half-hour of the inspector general report's release.

His commentary added fuel to criticism that he's serving more as a "spokesman" for Trump—as James Comey called him in a Washington Post op-ed—than as the independent head of the U.S. Justice Department. Barr's critics have accused him of

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politicizing the Justice Department, using his leadership to advance defense-lawyer arguments benefiting Trump personally and more widely the office of the presidency.

Barr doubled-down on his criticism of the Russia investigation on Tuesday, describing the probe as a "travesty" at an event hosted by the Wall Street Journal. Asked whether he believed FBI officials had a political motivation in the probe, Barr noted that the U.S. attorney in Connecticut, John Durham, is overseeing a separate inquiry into the Russia investigation and has wider authority to explore that question.

"That's why we have Durham," Barr said.

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"So I think he will have a broader appreciation of all the facts, and a determination will be made," he added.

On Tuesday, a group of former Justice Department and White House lawyers, all of whom served in Republican administrations, criticized Barr over his latest dip into a partisan battle. The former leaders are all affiliated with Checks & Balances, a group of conservative lawyers who have bristled at Trump's presidency. The group has lashed out at Barr previously, challenging his attempt to implement an "autocratic vision of executive power." Barr, for his part, reportedly said about Checks & Balances in November: "Generally, no one really cares what they think."

Jonathan Rose, who served under the Reagan administration as the assistant attorney general in charge of the Justice Department's Office of Legal Policy, said the inspector general's report "rebutts in detail the AG's charge that the FBI's investigation of the 2016 Trump campaign was unjustified, overly intrusive, or systematically suppressed exculpatory evidence."

"This is the first attorney general in the history of presidential impeachment proceedings to enlist as a partisan warrior on behalf of a President. It is a sad day for those of us who revere the historic commitment of the FBI and the Department of Justice to even-handed law enforcement based on truth and verifiable facts," said Rose, who had previously served under the Nixon administration as the deputy associate attorney general.

Donald Ayer, who served as deputy attorney general under the George H.W. Bush administration, said Barr's reaction to the inspector general's report was reminiscent of his handling of Special Counsel Robert Mueller's report on the Russia investigation. Ahead of the Mueller report's release, Barr came under criticism for mischaracterizing the report's findings.

Ayer, a former Jones Day partner who now teaches at Georgetown Law, said the inspector general's exhaustive investigation showed that the Russia investigation was "properly initiated based on a sound factual basis, and that the allegations of 'witch hunt' and bias on the part of those overseeing it are without foundation."

"Rather than focus on those critical findings which should reassure all Americans, Barr dwells entirely on the report's further findings that some agents (who he describes as a 'small group of now-former' FBI employees) were guilty of misconduct in the manner in which they put forward evidence in some submissions to the [Foreign Intelligence Surveillance Act] court," Ayer said, referring to the secretive court tasked with weighing warrant applications filed under the surveillance law.

Indeed, the inspector general's report stated repeatedly that the review of the Russia investigation had not uncovered evidence that "political bias or improper motivation" influenced the FBI's action, an assertion that flew in the face of Trump's refrain that the probe amounted to a partisan "witch hunt."



Christopher Wray testifies before the Senate Judiciary Committee during his confirmation hearing in 2017. Credit: Diego M. Radzinski.

FBI Director Christopher Wray has accepted the findings of the inspector general's report, saying it revealed "unacceptable" problems and missteps. Wray, a former partner at King & Spalding, has vowed to make changes to how the bureau handles confidential informants and applies for warrants through the FISA courts.

On Tuesday, Trump targeted Wray over his reaction to the report, writing in a tweet: "I don't know what report current Director of the FBI Christopher Wray was reading, but it sure wasn't the one given to me. With that kind of attitude, he will never be able to fix the FBI, which is badly broken despite having some of the greatest men & women working there!"

Carrie Cordero, a co-founder of Checks & Balances and former counsel to the head of the Justice Department's national security division under the George W. Bush administration, said Trump's tweet on Tuesday "betrays his own bias: one in favor of personal loyalty and blind partisanship instead of dedication to mission and country."

"We should not accept as normal or acceptable a political leader who routinely seeks to damage the credibility of the leadership and institutions dedicated to keeping Americans safe," she said.